

**ASSEMBLY BILL**

**No. 2289**

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**Introduced by Assembly Member Daly**

February 21, 2014

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An act to amend Sections 25620, 31116, and 31121 of, and to add Section 31158 to, the Corporations Code, and to amend Sections 12201, 17201, 22101, and 23005 of the Financial Code, relating to business.

LEGISLATIVE COUNSEL'S DIGEST

AB 2289, as introduced, Daly. Electronic records and signatures.

(1) The Corporate Securities Law of 1968 authorizes the Commissioner of Business Oversight to prescribe circumstances under which to accept electronic records or electronic signatures, as defined.

This bill would provide additional examples of what meets the definition of an “electronic record.”

(2) The Franchise Investment Law generally provides for the regulation of the offer and sale of franchises by the Commissioner of Business Oversight. The law specifically provides that the registration of the offer of franchises automatically becomes effective at noon on the 15th business day after the filing of the application for registration or the last amendment, except as specified.

This bill would instead provide that the offer automatically becomes effective on the 30th day after the filing of a complete application, and defines the term “complete application” for this purpose. This bill would similarly extend the time for a renewal of an offer, as specified. This bill would authorize the commissioner to prescribe circumstances under which to accept electronic records or electronic signatures, as defined.

(3) The Check Sellers, Bill Payers and Proraters Law generally requires the Commissioner of Business Oversight to, among other

things, proscribe the form of the application for a license to engage in business under its provisions.

This bill would authorize the commissioner to prescribe circumstances under which to accept electronic records or electronic signatures, as defined.

(4) The Escrow Law generally requires the Commissioner of Business Oversight to, among other things, proscribe the form of the application for a license as an escrow agent under its provisions.

This bill would authorize the commissioner to prescribe circumstances under which to accept electronic records or electronic signatures, as defined.

(5) The California Finance Lenders Law generally requires the Commissioner of Business Oversight to, among other things, proscribe the form of the application for a license as a finance lender or broker under its provisions.

This bill would authorize the commissioner to prescribe circumstances under which to accept electronic records or electronic signatures, as defined.

(6) The California Deferred Deposit Transaction Law generally requires the Commissioner of Business Oversight to, among other things, proscribe the form of the application for a license to engage in the businesses of offering, making, or arranging a deferred deposit transaction, as specified.

This bill would authorize the commissioner to prescribe circumstances under which to accept electronic records or electronic signatures, as defined.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 25620 of the Corporations Code is  
2 amended to read:  
3 25620. (a) Notwithstanding any other ~~provision of~~ law, the  
4 commissioner may by rule or order prescribe circumstances under  
5 which to accept electronic records or electronic signatures.  
6 ~~However, nothing in this~~ This section ~~requires~~ shall not require  
7 the commissioner to accept electronic records or electronic  
8 signatures.

(b) For purposes of this section, the following terms have the following meanings:

(1) “Electronic record” means a record created, generated, sent, communicated, received, or stored by electronic means, and includes a record transmitted by means of facsimile machine or other telephone transceiving equipment. *“Electronic record” also includes, but is not limited to, all of the following:*

(A) *An application, amendment, supplement, and exhibit, filed for any qualification, registration, order, permit, certificate, license, consent, or other authority, including, but not limited to, correspondence between the parties and the commissioner directly relating to the record.*

(B) *A financial statement, reports, advertising, and correspondence between a party and the commissioner directly relating to the record.*

(C) *An order, permit, certificate, license, consent, or other authority.*

(D) *A notice of public hearing, accusation, and statement of issues in connection with any application, qualification, registration, order, permit, certificate, license, consent, or other authority.*

(E) *A proposed decision of a hearing officer and a decision of the commissioner.*

(F) *The transcripts of a hearing and correspondence between a party and the commissioner directly relating to the record.*

(G) *A release, newsletter, interpretive opinion, determination, specific ruling, and the correspondence relating to the record.*

(2) “Electronic signature” means an electronic sound, symbol, or process attached to or logically associated with an electronic record and executed or adopted by a person with the intent to sign the electronic record.

(c) The Legislature—~~hereby~~ finds and declares that the Department of Corporations *Business Oversight* has continuously implemented methods to file records electronically, including broker-dealer and investment adviser applications, and is encouraged to continue to expand its use of electronic filings to the extent feasible, as budget, resources, and equipment are made available to accomplish that goal.

SEC. 2. Section 31116 of the Corporations Code is amended to read:

1 31116. (a) Except as provided in subdivision (b), if no stop  
2 order under Section 31115 is in effect under this law, registration  
3 of the offer of franchises automatically becomes effective at 12  
4 o'clock noon, California time, of the ~~15th~~ 30th business day after  
5 the filing of ~~the~~ a complete application for registration or the last  
6 preeffective amendment thereto, or at such earlier time as the  
7 commissioner determines.

8 (b) With respect to any application for registration or the last  
9 amendment thereto filed between January 1, 1971, and March 15,  
10 1971, if no stop order under Section 31115 is in effect under this  
11 law, registration becomes effective on April 15, 1971; with respect  
12 to any application filed after March 15, 1971 and before May 10,  
13 1971, if no stop order under Section 31115 is in effect under this  
14 law, registration becomes effective on June 1, 1971, or the 15th  
15 business day after the filing, whichever is the later, or at such  
16 earlier time as the commissioner determines.

17 (c) For purposes of this section, "complete application" means  
18 an application that contains the appropriate filing fee, Uniform  
19 Franchise Disclosure Document, and all additional exhibits,  
20 including financial statements in conformity with regulation of the  
21 commissioner.

22 SEC. 3. Section 31121 of the Corporations Code is amended  
23 to read:

24 31121. (a) The registration may be renewed for additional  
25 periods of one year each, unless the commissioner by rule or order  
26 specifies a different period, by submitting to the commissioner a  
27 ~~registration renewal statement no later than 15 business days prior~~  
28 ~~to renewal application before the expiration of the registration~~  
29 ~~unless such period is waived by order of the commissioner.~~ If no  
30 stop order or other order under Section 31115 is in effect under  
31 this law, registration of the offer of the franchises automatically  
32 becomes renewed effective at 12 o'clock noon, California time, ~~of~~  
33 ~~the date on which the prior registration is due to expire, of the 30th~~  
34 ~~business day after the filing of a complete application for~~  
35 ~~registration or the last preeffective amendment or at such earlier~~  
36 time as the commissioner determines.

37 (b) For purposes of this section, "complete application" means  
38 an application that contains the appropriate filing fee, Uniform  
39 Franchise Disclosure Document, and all additional exhibits,

1 *including financial statements in conformity with regulation of the*  
2 *commissioner.*

3 SEC. 4. Section 31158 is added to the Corporations Code, to  
4 read:

5 31158. (a) Notwithstanding any other law, the commissioner  
6 may by rule or order prescribe circumstances under which to accept  
7 electronic records or electronic signatures. This section shall not  
8 require the commissioner to accept electronic records or electronic  
9 signatures.

10 (b) For purposes of this section, the following terms have the  
11 following meanings:

12 (1) "Electronic record" means an initial registration application,  
13 registration renewal statement, preeffective amendment,  
14 posteffective amendment, or material modification and any other  
15 record created, generated, sent, communicated, received, or stored  
16 by electronic means, and includes a record transmitted by means  
17 of facsimile machine or other telephone transceiving equipment.  
18 "Electronic record" also includes, but is not limited to, all of the  
19 following:

20 (A) An application, amendment, supplement, and exhibit, filed  
21 for any qualification, registration, order, permit, certificate, license,  
22 consent, or other authority, including, but not limited to,  
23 correspondence between the parties and the commissioner directly  
24 relating to the record.

25 (B) A financial statement, reports, advertising, and  
26 correspondence between a party and the commissioner directly  
27 relating to the record.

28 (C) An order, permit, certificate, license, consent, or other  
29 authority.

30 (D) A notice of public hearing, accusation, and statement of  
31 issues in connection with any application, qualification,  
32 registration, order, permit, certificate, license, consent, or other  
33 authority.

34 (E) A proposed decision of a hearing officer and a decision of  
35 the commissioner.

36 (F) The transcripts of a hearing and correspondence between a  
37 party and the commissioner directly relating to the record.

38 (G) A release, newsletter, interpretive opinion, determination,  
39 specific ruling, and correspondence relating to the record.

(2) “Electronic signature” means an electronic sound, symbol, or process attached to or logically associated with an electronic record and executed or adopted by a person with the intent to sign the electronic record.

(c) The Legislature finds and declares that the Department of Business Oversight has continuously implemented methods to file records electronically, including broker-dealer and investment adviser applications, and is encouraged to continue to expand its use of electronic filings to the extent feasible, as budget, resources, and equipment are made available to accomplish that goal.

SEC. 5. Section 12201 of the Financial Code is amended to read:

12201. (a) An application for a license shall be in writing, under oath, and in a form prescribed by the commissioner and shall contain the name, and the address both of the residence and place of business, of the applicant and if the applicant is a partnership or association, of every member thereof, and if a corporation, of every officer and director thereof.

(b) *Notwithstanding any other law, the commissioner may by rule or order prescribe circumstances under which to accept electronic records or electronic signatures. This section shall not require the commissioner to accept electronic records or electronic signatures.*

(c) *For purposes of this section, the following terms have the following meanings:*

(1) *“Electronic record” means an initial registration application, registration renewal statement, preeffective amendment, posteffective amendment, or material modification and any other record created, generated, sent, communicated, received, or stored by electronic means, and includes a record transmitted by means of facsimile machine or other telephone transceiving equipment. “Electronic record” also includes, but not limited to, all of the following:*

(A) *An application, amendment, supplement, and exhibit, filed for any qualification, registration, order, permit, certificate, license, consent, or other authority, including, but not limited to, correspondence between the parties and the commissioner directly relating to the record.*

1 (B) A financial statement, reports, advertising, and  
2 correspondence between a party and the commissioner directly  
3 relating to the record.

4 (C) An order, permit, certificate, license, consent, or other  
5 authority.

6 (D) A notice of public hearing, accusation, and statement of  
7 issues in connection with any application, qualification,  
8 registration, order, permit, certificate, license, consent, or other  
9 authority.

10 (E) A proposed decision of a hearing officer and a decision of  
11 the commissioner.

12 (F) The transcripts of a hearing and correspondence between  
13 a party and the commissioner directly relating to the record.

14 (G) A release, newsletter, interpretive opinion, determination,  
15 specific ruling, and correspondence relating to the record.

16 (2) “Electronic signature” means an electronic sound, symbol,  
17 or process attached to or logically associated with an electronic  
18 record and executed or adopted by a person with the intent to sign  
19 the electronic record.

20 (d) The Legislature finds and declares that the Department of  
21 Business Oversight has continuously implemented methods to file  
22 records electronically, including broker-dealer and investment  
23 adviser applications, and is encouraged to continue to expand its  
24 use of electronic filings to the extent feasible, as budget, resources,  
25 and equipment are made available to accomplish that goal.

26 SEC. 6. Section 17201 of the Financial Code is amended to  
27 read:

28 17201. (a) An application for a license as an escrow agent  
29 shall be in writing and in such form as is prescribed by the  
30 commissioner. The application shall be verified by the oath of the  
31 applicant.

32 (b) Notwithstanding any other law, the commissioner may by  
33 rule or order prescribe circumstances under which to accept  
34 electronic records or electronic signatures. This section shall not  
35 require the commissioner to accept electronic records or electronic  
36 signatures.

37 (c) For purposes of this section, the following terms have the  
38 following meanings:

39 (1) “Electronic record” means an initial registration  
40 application, registration renewal statement, preeffective

1 amendment, posteffective amendment, or material modification  
2 and any other record created, generated, sent, communicated,  
3 received, or stored by electronic means, and includes a record  
4 transmitted by means of facsimile machine or other telephone  
5 transceiving equipment. “Electronic records” also includes, but  
6 not limited to, all of the following:

7 (A) An application, amendment, supplement, and exhibit, filed  
8 for any qualification, registration, order, permit, certificate,  
9 license, consent, or other authority, including, but not limited to,  
10 correspondence between the parties and the commissioner directly  
11 relating to the record.

12 (B) A financial statement, reports, advertising, and  
13 correspondence between a party and the commissioner directly  
14 relating to the record.

15 (C) An order, permit, certificate, license, consent, or other  
16 authority.

17 (D) A notice of public hearing, accusation, and statement of  
18 issues in connection with any application, qualification,  
19 registration, order, permit, certificate, license, consent, or other  
20 authority.

21 (E) A proposed decision of a hearing officer and a decision of  
22 the commissioner.

23 (F) The transcripts of a hearing and correspondence between  
24 a party and the commissioner directly relating to the record.

25 (G) A release, newsletter, interpretive opinion, determination,  
26 specific ruling, and the correspondence relating to the record.

27 (2) “Electronic signature” means an electronic sound, symbol,  
28 or process attached to or logically associated with an electronic  
29 record and executed or adopted by a person with the intent to sign  
30 the electronic record.

31 (d) The Legislature finds and declares that the Department of  
32 Business Oversight has continuously implemented methods to file  
33 records electronically, including broker-dealer and investment  
34 adviser applications, and is encouraged to continue to expand its  
35 use of electronic filings to the extent feasible, as budget, resources,  
36 and equipment are made available to accomplish that goal.

37 SEC. 7. Section 22101 of the Financial Code is amended to  
38 read:

39 22101. (a) An application for a license as a finance lender or  
40 broker under this division shall be in the form and contain the



1 information that the commissioner may by rule *or order* require  
2 and shall be filed upon payment of the fee specified in Section  
3 22103.

4 (b) Notwithstanding any other ~~provision of~~ law, an applicant  
5 who does not currently hold a license as a finance lender or broker  
6 under this division shall furnish with his or her application, a full  
7 set of fingerprints and related information for purposes of the  
8 commissioner conducting a criminal history record check. The  
9 commissioner shall obtain and receive criminal history information  
10 from the Department of Justice and the Federal Bureau of  
11 Investigation pursuant to Section 22101.5.

12 (c) ~~Nothing in this~~ This section shall *not* be construed to prevent  
13 a licensee from engaging in the business of a finance lender through  
14 a subsidiary corporation if the subsidiary corporation is licensed  
15 pursuant to this division.

16 (d) For purposes of this section, “subsidiary corporation” means  
17 a corporation that is wholly owned by a licensee.

18 (e) A new application shall not be required for a change in the  
19 address of an existing location previously licensed under this  
20 division. However, the licensee shall comply with the requirements  
21 of Section 22153.

22 (f) Notwithstanding subdivisions (a) to (e), inclusive, the  
23 commissioner may by rule require an application to be made  
24 through the Nationwide Mortgage Licensing System and Registry,  
25 and may require fees, fingerprints, financial statements, supporting  
26 documents, changes of address, and any other information, and  
27 amendments or modifications thereto, to be submitted in the same  
28 manner.

29 (g) *Notwithstanding any other law, the commissioner may by*  
30 *rule or order prescribe circumstances under which to accept*  
31 *electronic records or electronic signatures. This section shall not*  
32 *require the commissioner to accept electronic records or electronic*  
33 *signatures.*

34 (h) *For purposes of this section, the following terms have the*  
35 *following meanings:*

36 (1) *“Electronic record” means an initial registration*  
37 *application, registration renewal statement, preeffective*  
38 *amendment, posteffective amendment, or material modification*  
39 *and any other record created, generated, sent, communicated,*  
40 *received, or stored by electronic means, and includes a record*

1 transmitted by means of facsimile machine or other telephone  
2 transceiving equipment. “Electronic records” also includes, but  
3 not limited to, all of the following:

4 (A) An application, amendment, supplement, and exhibit, filed  
5 for any qualification, registration, order, permit, certificate,  
6 license, consent, or other authority, including, but not limited to,  
7 correspondence between the parties and the commissioner directly  
8 relating to the record.

9 (B) A financial statement, reports, advertising, and  
10 correspondence between a party and the commissioner directly  
11 relating to the record.

12 (C) An order, permit, certificate, license, consent, or other  
13 authority.

14 (D) A notice of public hearing, accusation, and statement of  
15 issues in connection with any application, qualification,  
16 registration, order, permit, certificate, license, consent, or other  
17 authority.

18 (E) A proposed decision of a hearing officer and a decision of  
19 the commissioner.

20 (F) The transcripts of a hearing and correspondence between  
21 a party and the commissioner directly relating to the record.

22 (G) A release, newsletter, interpretive opinion, determination,  
23 specific ruling, and the correspondence relating to the record.

24 (2) “Electronic signature” means an electronic sound, symbol,  
25 or process attached to or logically associated with an electronic  
26 record and executed or adopted by a person with the intent to sign  
27 the electronic record.

28 (i) The Legislature finds and declares that the Department of  
29 Business Oversight has continuously implemented methods to file  
30 records electronically, including broker-dealer and investment  
31 adviser applications, and is encouraged to continue to expand its  
32 use of electronic filings to the extent feasible, as budget, resources,  
33 and equipment are made available to accomplish that goal.

34 SEC. 8. Section 23005 of the Financial Code is amended to  
35 read:

36 23005. (a) ~~No~~A person shall *not* offer, originate, or make a  
37 deferred deposit transaction, arrange a deferred deposit transaction  
38 for a deferred deposit originator, act as an agent for a deferred  
39 deposit originator, or assist a deferred deposit originator in the  
40 origination of a deferred deposit transaction without first obtaining

1 a license from the commissioner and complying with the provisions  
2 of this division. The requirements of this subdivision shall not  
3 apply to persons or entities that are excluded from the definition  
4 of “licensee” as set forth in Section 23001. ~~Nothing in this~~ This  
5 division shall *not* be construed to require the commissioner to  
6 create separate classes of licenses.

7 (b) An application for a license under this division shall be in  
8 the form and contain the information that the commissioner may  
9 by rule require and shall be filed upon payment of the fee specified  
10 in Section 23006.

11 (c) A licensee with one or more licensed locations seeking an  
12 additional location license may file a short form license application  
13 as may be established by the commissioner pursuant to subdivision  
14 (b) of this section.

15 (d) *Notwithstanding any other law, the commissioner may by*  
16 *rule or order prescribe circumstances under which to accept*  
17 *electronic records or electronic signatures. This section shall not*  
18 *require the commissioner to accept electronic records or electronic*  
19 *signatures.*

20 (e) *For purposes of this section, the following terms have the*  
21 *following meanings:*

22 (1) *“Electronic record” means an initial registration*  
23 *application, registration renewal statement, preeffective*  
24 *amendment, posteffective amendment, or material modification*  
25 *and any other record created, generated, sent, communicated,*  
26 *received, or stored by electronic means, and includes a record*  
27 *transmitted by means of facsimile machine or other telephone*  
28 *transceiving equipment. “Electronic records” also includes, but*  
29 *not limited to, all of the following:*

30 (A) *An application, amendment, supplement, and exhibit, filed*  
31 *for any qualification, registration, order, permit, certificate,*  
32 *license, consent, or other authority, including, but not limited to,*  
33 *correspondence between the parties and the commissioner directly*  
34 *relating to the record.*

35 (B) *A financial statement, reports, advertising, and*  
36 *correspondence between a party and the commissioner directly*  
37 *relating to the record.*

38 (C) *An order, permit, certificate, license, consent, or other*  
39 *authority.*

1     (D) A notice of public hearing, accusation, and statement of  
2 issues in connection with any application, qualification,  
3 registration, order, permit, certificate, license, consent, or other  
4 authority.

5     (E) A proposed decision of a hearing officer and a decision of  
6 the commissioner.

7     (F) The transcripts of a hearing and correspondence between  
8 a party and the commissioner directly relating to the record.

9     (G) A release, newsletter, interpretive opinion, determination,  
10 specific ruling, and the correspondence relating to the record.

11     (2) “Electronic signature” means an electronic sound, symbol,  
12 or process attached to or logically associated with an electronic  
13 record and executed or adopted by a person with the intent to sign  
14 the electronic record.

15     (f) The Legislature finds and declares that the Department of  
16 Business Oversight has continuously implemented methods to file  
17 records electronically, including broker-dealer and investment  
18 adviser applications, and is encouraged to continue to expand its  
19 use of electronic filings to the extent feasible, as budget, resources,  
20 and equipment are made available to accomplish that goal.